Amendments to the Drawings:

Please cancel/delete the Replacement Sheet which includes original Figures 3 and 4.

The attached Second Replacement Sheet replaces the first Replacement Sheet including Figure 3 and 4. In these amended Figures 3 and 4 reference number "3" has been added to indicate "the rearward end" of shank portion (2).

Attachment: 1 Second Replacement Sheet of Drawings including FIGS 3 and 4.
1 Annotated Sheet showing changes from the first Replacement Sheet

REMARKS/ARGUMENTS

Claims 1-11 are original or amended claims pending in the application. Claims 12-21 are new claims added by the present amendment. As part of the Request of Continued Examination filed herewith, reconsideration and reexamination of the application are hereby respectfully requested.

In the Drawings:

The Examiner has objected to drawings under 37 CFR 1.83(a) because Figures 3 and 4 fail to show the "rearward end (3)" as described in the specification. Therefore, Figures 2 and 3 are amended to add reference number (3) indicating the rearward end of shank portion (2). Applicant notes that the rearward end is indicated by reference number (3) in related Figures 1 and 2.

In the Claims:

Rejection of Claim 1 and 2 under 35 USC §102(b) as anticipated by US 4,491,444

Claim 1, the application's only independent claim, stands rejected under 35 U.S.C. §102 (b), as anticipated by US 4,491,444 to Rumpp et al. The Examiner states that "Rumpp et al. '444 shows a tool . . . where the forward end of the closed groove is located with respect to the rearward end of the tool so that the rear end of the tool is always maintained forward of the forwardmost position of the beatpiece." The Applicant disagrees with this description of Rump '444, but in order to obtain timely protection for the subject invention, he submits the enclosed amendment to independent claim 1. The Applicant reserves the right to pursue the original or similar claims in a later Continuation application.

The Examiner argues that Fig. 3 of Rumpp '444 discloses an operator selectable "solely rotary drilling mode" wherein the Rumpp tool holder holds the Rump shank (1) so that the rear end of the tool/shank is maintained forwardly of the forwardmost position of the beatpiece. See Final Action Page 3, Section 4.

According to the Examiner, since the Rumpp rotary hammer and tool holder can be left in that drilling-only position/mode indefinitely, then the rear end of the Rumpp '444 tool (1) is "always" maintained forward of the beatpiece, as required by claim 1. See Final Acton Page 7, Section 6.

The subject tool for use with a hammer is meant to provide a special bit for use on certain brittle materials, such as ceramics. As such it may be provided with a special tip, such as a carbide insert. The subject tool is intended to be used in the rotary only (drilling only) mode of operation of the rotary hammer. Both the workpiece material (for example ceramic) and/or the tip (for example carbide) could be damaged, if the rotary hammer were inadvertently operated in a percussive mode, such as the hammer only or the rotary hammer (hammer drill) mode. Therefore, in order to make the invention drill bit/tool "fool proof" its locking groove is arranged such that, even if the rotary hammer and associated tool holder are operated in a hammer-only mode or a rotary-hammer mode, the rear end of the subject tool is held beyond the forwardmost position of the beatpiece, and can not be struck by the beatpiece.

Therefore, Claim 1 is amended herein to require that the rotary hammer and its tool holder be operable in a hammer mode (that is a hammer-only mode without rotary drive) or in a rotary hammer mode (that is a mode combining both rotary drive and hammering action and sometimes referred to as hammer drill mode). Furthermore, Claim 1 is amended to require that when the rotary hammer is operated in either the hammer mode or the rotary hammer mode, the rear end of the tool is maintained forward of the forward most position of the beatpiece.

Rumpp '444 does not disclose such a tool. Indeed, it is the stated objective of Rumpp to provide a tool holder capable of permitting percussive drilling with axial movement of the drill bit under one operator selectable condition and to provide rotary drilling without axial movement of the same drill bit under a second operator selectable condition. See Rumpp at col. 1 lines 36 – 55. Thus, Rumpp clearly allows for the rear end of the tool to be contacted by the beatpiece/anvil 2 of the rotary hammer, when percussion/hammering action is desired. See Rumpp Fig. 1. Therefore, it cannot be said that Rumpp '444 teaches a tool having a shank with a closed groove located so that "when the tool is locked in the tool holder of the rotary hammer, and the tool holder and rotary hammer are operated in one of the hammer mode and rotary hammer mode, the rear end of the tool is always maintained forwardly of the forwardmost position of the beatpiece" as required by Claim 1.

Since the Applicant believes that amended Claim 1 is not anticipated or made obvious by Rumpp '444, he believes that it is not necessary to separately traverse the section 102(b) rejection of dependent Claim 2. Likewise, the applicant respectfully submits that it is unnecessary to separately traverse the various grounds for rejecting the other independent claims 3 through 11 under 35 U.S.C. §103.

New Claims:

New claims 12-21 all require a tool "wherein the closed groove has a forward end, and the forward end is between 14 mm and 20 mm from the rearward end of the tool." The Applicant believes that these numerical limitations would ensure that such a bit, when installed in a rotary hammer for use with SDS type bits, would be held in the tool holder forward of the forwardmost position of the beat piece, even when the hammer is placed in hammer-only mode or rotary-hammer mode.

The Applicant believes that these dimensions are not obvious in view of the references previously cited by the Examiner, since (as discussed above) those references discuss modes of operation (hammer and rotary hammer) where it is desired for the beatpiece to strike the tool bit. Furthermore, they do not disclose or suggest a situation (like the one which is the object of the present invention) where it would be desirable to have a tool bit that could not be struck by the beat piece when the rotary hammer is in a percussive mode (hammer or rotary-hammer mode). Indeed, such a tool would render the subject references non-functional for their intended purposes.

CONTINUED ON THE NEXT PAGE

For the foregoing reasons, it is respectfully submitted that this application is in condition for allowance and favorable consideration thereof is requested.

Respectfully submitted

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November 14, 2005

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Serial No.: 10/678,659
Title: Drilling Tool for a Rotary Hammer Inventor: Markus Rompel
Docket No.: P-US-AC 1040
Annotated Sheet

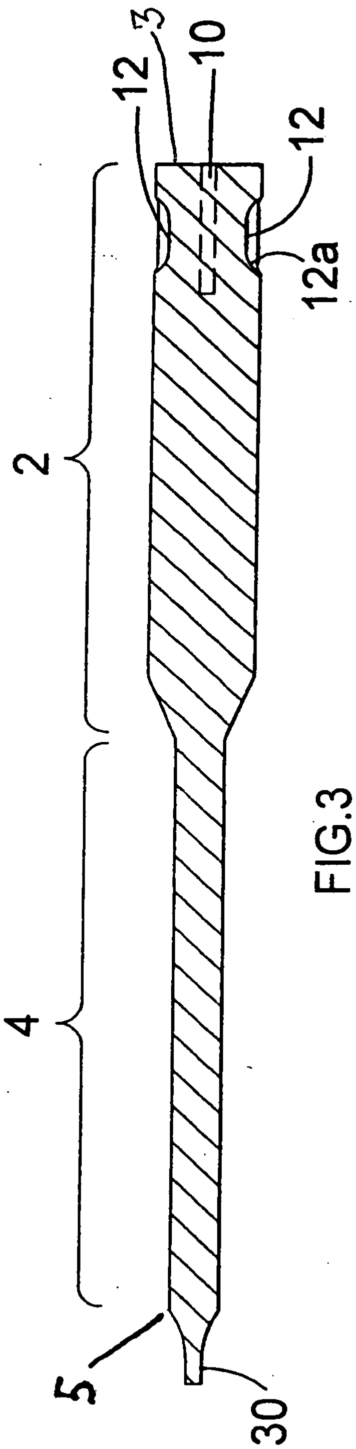

FIG.3

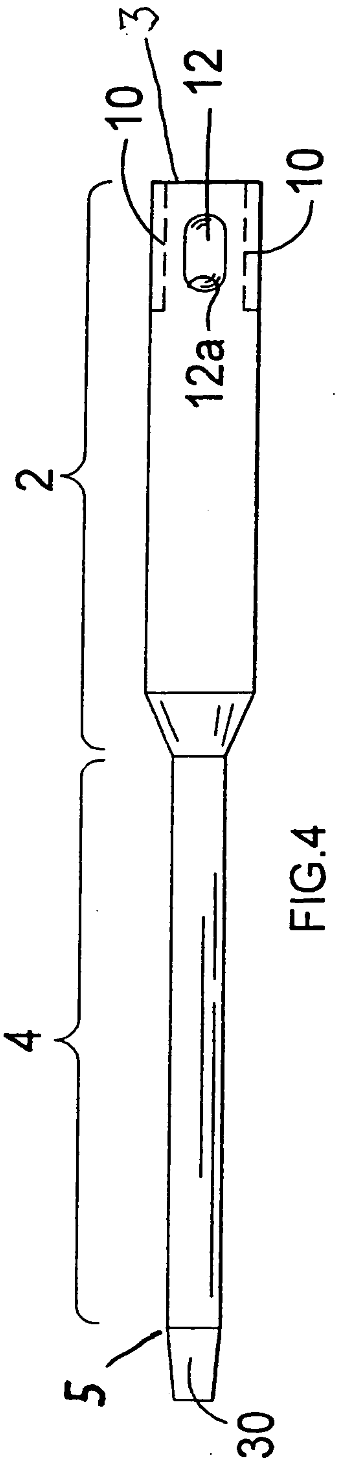

FIG.4

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